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Superior Court of California
County of Los Angeles

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Sherri R. Carter, Executive Officer/Clerk
By: Glorietta Robinson, Deputy

BY FAX

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

ADRIAN RISKIN,

Petitioner,

vs.

DOWNTOWN LOS ANGELES PROPERTY
OWNERS ASSOCIATION,

Respondent.

Case No.:

BS 174792

VERIFIED PETITION FOR WRIT OF
MANDATE/COMPLAINT FOR
DECLARATORY RELIEF UNDER THE
CALIFORNIA PUBLIC RECORDS ACT

[Gov't Code §§ 6250, *et seq.* Civ. Proc. Code
§§ 1085, *et seq.*]

Department:

INTRODUCTION

1. This is a petition to enforce the California Public Records Act ("CPRA") against Respondent Downtown Los Angeles Property Owners Association, a.k.a. the Fashion District Business Improvement District ("Respondent," "the BID.") The BID, with its over \$4 million dollar annual budget, is a potent political actor in the City of Los Angeles. The records at issue will reveal how the BID wields its influence and the role it has played in, among other matters, the controversial 2017 Skid Row Neighborhood Council formation election.¹ In addition to its role as an agent of influence on behalf of downtown Los Angeles property owners, the BID wields martial power in its operation of a 24-hour security force—the so-called "Clean & Safe Team." The BID's political, economic, and martial power arise from statute and public contract. By withholding the records Petitioner seeks, the BID inexcusably seeks to evade the obligations of transparency and public accountability which accompany its public grant of power.

2. The records Petitioner seeks are easy to provide and fundamental to understanding how the BID operates. Requested records include board member emails, the BID's communications with consultants retained to lobby the City Council for the BID's renewal, and Respondent's communications with other BIDs and the Downtown Los Angeles Neighborhood Council. The latter class of records will clarify Respondent's role in frustrating Skid Row residents' 2017 effort to establish a neighborhood council of their own.

3. The BID, by a combination of delay, non-response, refusal to search, deliberate deletion of requested records, and baseless assertion of the "deliberative process privilege," has unlawfully frustrated public access to the requested records.

4. Therefore, by this petition and pursuant to the Code of Civ. Procedure §§ 1085, *et seq.* and Cal. Gov't Code §§ 6250, *et seq.*², Petitioner seeks a writ of mandate and declaratory relief to enforce the CPRA by compelling the Downtown Los Angeles Property Owners Association to locate and produce the requested records.

¹ In 2017, the residents of Skid Row organized an effort to form a Skid Row Neighborhood Council. The effort was narrowly defeated after a confederation of BIDs and other business interests operating as "United Downtown LA, LLC," engaged in an opposition campaign. The outcome of that election is currently the subject of litigation.

² Unless otherwise stated, all references to code sections are to the Cal. Gov't Code.

1 **PARTIES**

2 5. Petitioner Adrian Riskin is a resident of Los Angeles, holds a PhD in mathematics, is
3 a mathematics professor at a local college, and is an open records activist. Petitioner uses public
4 records requests to investigate and understand the activities of business improvement districts
5 (“BIDs”), Los Angeles city government, and the relationship between the two. He publicizes his
6 findings to the public through blogging and community events. Petitioner has uncovered
7 information via CPRA requests which has assisted academic researchers and the public at large in
8 understanding BIDs and their power in the community. His work has been utilized by the U.C.
9 Berkeley School of Law Policy Advocacy Clinic, documentary filmmakers have used his work to
10 inform the production of a film on the Greater West Hollywood Food Coalition and the Hollywood
11 Media District BID, and his work led to the Los Angeles City Attorney resuming enforcement of an
12 ordinance requiring BID security patrols to register with the Los Angeles Police Commission. Most
13 recently, Petitioner's research regarding the thwarted formulation of a Skid Row Neighborhood
14 Council was featured as part of an exhibit at the Los Angeles Poverty Department Museum and
15 detailed in Los Angeles Magazine. Additionally, Petitioner has empowered the public to use the
16 CPRA effectively for both research and civic activism by publishing a guide to the practical use of
17 the CPRA in the City of Los Angeles. Riskin is a member of the public within the meaning of
18 §§ 6252(b)-(c).

19 6. Respondent Downtown Los Angeles Property Owners Association is a property
20 owners’ association pursuant to the Property and Business Improvement District Law of 1994,
21 California Streets & Highways Code §§ 36600, *et seq.* Respondent contracts with the City of Los
22 Angeles to manage the Fashion District Business Improvement District. Respondent is subject to
23 the CPRA as a matter contract and state law. California Streets & Highways Code § 36612.

24
25 **JURISDICTION AND VENUE**

26 7. This court has jurisdiction under Gov’t Code §§ 6258, 6259, Code of Civ. Proc.
27 § 1085, and Article VI, Section 10 of the California Constitution.

28 8. Venue is proper in this Court. The records in question, or some portion of them, are

1 situated in the County of Los Angeles, Gov't Code § 6259; the acts or omissions complained of
2 occurred in the County of Los Angeles, Code of Civ. Proc. § 393; finally, Respondent is located in
3 the County of Los Angeles, Code of Civ. Proc. § 395.

4 **FACTUAL ALLEGATIONS**

5 **Petitioner submits the CPRA requests at issue; the BID unlawfully withholds records**

6 9. At issue in this case are three CPRA requests that Petitioner submitted to Respondent
7 on May 17, 2017, July 7, 2017, and July 31, 2017. Respondent unlawfully withheld records in
8 response to each of the three requests.

9 Request #1 – Item (1): communications with the South Park BID and the Downtown Los
10 Angeles Neighborhood Council; Item (2): Chairman of the Board Mark Chatoff's emails.

11 10. On May 17, 2017, Petitioner submitted a CPRA request to the BID. Item (1) of the
12 request sought all emails between Respondent and the South Park BID and/or the Downtown Los
13 Angeles Neighborhood Council dating from January 1, 2016, through May 15, 2017. Item (2) of the
14 request sought all 2017 emails in the possession of Mark Chatoff, the Chairman of the BID's Board
15 of Directors, relating to the operation of the BID.³ A true and accurate copy of Request #1 is
16 attached as Exhibit A.

17 11. The BID did not provide a determination of disclosability within 10 days, as required
18 by § 6253(c). After nearly two months, and a reminder from Petitioner, the BID, in the person of its
19 Executive Director Rena Leddy, produced a link on July 14, 2017, which the BID described as the
20 "completed response." A true and accurate copy of the correspondence related to Request #1
21 leading up to the BID's July 14, 2017, production is attached as Exhibit B.

22 12. In its July 14, 2017, production, Respondent did not include a letter stating whether
23 or under what exemptions the BID was withholding records. The production did not contain any
24 emails from Mark Chatoff which would have been responsive to Item (2) of Petitioner's request.
25 Petitioner sought clarification from Respondent as to whether records were withheld subject to
26 exemptions or whether the BID claimed that Chatoff had no emails related to the BID. The BID did
27

28 ³ The request also contained an item (3). The BID asserts no responsive records exist and Petitioner has no present reason to disbelieve that assertion.

1 not confirm whether it withheld records, but stated "[a]ny exemptions are due to deliberative
2 process." Petitioner tried, multiple times, to obtain clarification as to the nature of the BID's
3 withholdings but had little luck coaxing a clear response from the BID. While the BID asserted that
4 it "had no records responsive" to Item (2), it declined to confirm whether it withheld any records
5 responsive to Item (1) and stopped responding to this request after July 27, 2018. A true and
6 accurate copy of the correspondence related to Request #1 between July 14, 2017, and July 27,
7 2017, is attached as Exhibit C.

8 13. On August 18, 2017, Petitioner made another attempt to obtain records responsive to
9 Item (2). Petitioner's email stated, in part, "[c]an you please ask [Chatoﬀ] to check again and also
10 not to delete any responsive records irrespective of your opinion on whether they're exempt until we
11 get this matter thoroughly hashed out?" The BID did not reply. A true and accurate copy of
12 Petitioner's August 18, 2017, email to the BID is attached as Exhibit D.

13 14. Also on August 18, 2017, Petitioner emailed Chatoﬀ directly and copied the BID. In
14 his email, Petitioner requested that Chatoﬀ refrain from deleting any 2017 emails relating to the
15 operation of the BID until it could be determined whether the records were universally exempt from
16 disclosure. Petitioner further requested that Chatoﬀ provide any emails where Leddy asked that
17 Chatoﬀ conduct a search for responsive emails. Neither Chatoﬀ nor the BID replied. A true and
18 accurate copy of Petitioner's August 18, 2017, email to Chatoﬀ is attached as Exhibit E.

19 15. Records responsive to Item (2) exist or previously existed. Petitioner obtained,
20 through CPRA requests to other agencies, responsive records to and/or from Chatoﬀ from March of
21 2017 related to the BID's participation in the effort to defeat the formation of the proposed Skid
22 Row Neighborhood Council. True and accurate copies of responsive Chatoﬀ records which the BID
23 failed to provide are attached as Exhibit F.

24 16. As of this writing, the BID has not confirmed whether it withheld any records
25 responsive to Request #1. Further, the BID has not provided even a single 2017 email in the
26 possession of Chatoﬀ, the Chairman of the BID's Board of Directors, and has not confirmed
27 whether it ever asked Chatoﬀ to conduct an email search.

28 Request #2 – Emails between the BID and Urban Place Consulting ("UPC.")

1 17. On July 7, 2017, Petitioner emailed the BID and requested "all emails between
2 anyone at UPC and anyone at the BID (staff and board) exclusive of [Leddy] from January 1, 2017
3 through whenever you comply with this request." Petitioner clarified that he was requesting the
4 records in either native format with attachments included or in the specific PDF format which
5 includes embedded attachments. A true and correct copy of Request #2 is attached as Exhibit G.

6 18. UPC is a consulting firm that specializes in serving BIDs. UPC contracted with
7 Respondent in January 2017 to provide services related to the BID's upcoming renewal, a process
8 which includes the City Council passing two ordinances. In the contract, UPC agreed to provide
9 services including "[o]btaining City Clerk approval of Management Plan and Engineer's Report"
10 and "[t]estifying at Council committee meetings and Council meetings as necessary." A true and
11 correct copy of "Exhibit 'A'" of the contract between UPC and Respondent is attached as Exhibit H.

12 19. The BID responded on July 17, 2017. In its response, the BID asserted that Request
13 #2 sought "some records which are exempt from disclosure as deliberative process." However, the
14 BID estimated that it would provide all non-exempt records and information "within the next two
15 weeks." A true and correct copy of the BID's initial response to Request #2 is attached as Exhibit I.

16 20. The same day, Petitioner challenged the BID's claim regarding the deliberative
17 process privilege, citing to the public interest in municipal lobbying as stated by the Los Angeles
18 Municipal Lobbying Ordinance (Los Angeles Municipal Code § 48.01, *et seq.*) In response, the BID
19 simply reiterated that it had determined the exemption applied and did not provide further
20 clarification. A true and accurate copy of the correspondence regarding the deliberative process
21 privilege and Request #2 is attached as Exhibit J.

22 21. The BID did not provide records responsive to Request #2 within two weeks of its
23 July 17, 2017, response. On August 18, 2017, Petitioner inquired as to the status of the request. The
24 BID finally responded on October 13, 2017, stating, in relevant part, that Request #2 "seeks records
25 which are exempt from disclosure under the CPRA because they constitute deliberative process
26 privilege and we have no records responsive." True and accurate copies of Petitioner's August 18,
27 2017, inquiry, and the BID's October 13, 2017, response are attached as Exhibit K.

28 22. As of this writing, the BID has not produced even a single email between UPC and

1 the BID.

2 Request #3 – Board Member Linda Becker's emails.

3 23. On July 31, 2017, Petitioner requested "copies of all 2017 emails in the possession of
4 Linda Becker that relate to the operation of the BID." Becker is a member of the Board of Directors
5 and chair of the BID's ad hoc renewal committee. A true and accurate copy of Request #3 is
6 attached as Exhibit L.

7 24. The BID did not provide a determination of disclosability within 10 days, as required
8 by § 6253(c). On August 18, 2017, Petitioner inquired as to the status of the request. The BID
9 responded that no responsive records existed and that it was not claiming exemptions. True and
10 accurate copies of Petitioner's August 18, 2017, email inquiry and the BID's response are attached
11 as Exhibit M.

12 25. Petitioner responded by explaining that a responsive record must exist. Petitioner
13 drew the BID's attention to the fact that board members received a meeting announcement in early
14 August–after Petitioner submitted the request. Thus, either Becker possessed that email or Becker
15 deleted it after Petitioner made his request, which Petitioner advised may have been unlawful.
16 Petitioner asked Respondent to contact Becker to conduct another search. In reply, the BID now
17 asserted that Request #3 sought "records exempt from disclosure pursuant to the deliberative
18 process privilege." While, the BID agreed to provide the email advising Becker of the August Board
19 Meeting, the BID did not agree to ask Becker to conduct another search for responsive records.⁴ A
20 true and accurate copy of Petitioner's and the BID's correspondence about the existing records
21 which were withheld or unlawfully deleted in Response to Request #3 is attached as Exhibit N.

22 26. Petitioner replied, asserting that the BID's conduct in denying that records exist and
23 then being willing to provide only the specific record Petitioner identified suggested that the BID
24 had not searched Becker's emails. Petitioner asked the BID to reconsider its stance on the records
25 and requested that Becker not delete any emails until the matter was settled. *See Exhibit N.*

26 27. The BID responded that neither staff nor board members are required to retain
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28

⁴ The BID has not yet produced the Becker email announcing the August 2017 meeting.

1 emails, that it provided emails in compliance with the CPRA, and that the BID "will not require
2 BID employees or board members to retain emails simply because you have made a demand that
3 any individual or the BID as a whole retain emails." The BID concluded, "[t]his will be my final
4 communication on this topic." *See Exhibit N.*

5 28. Petitioner responded twice more. First, on August 21, 2017, Petitioner sent the BID a
6 presentation by the former City Attorney of Lathrop, CA which indicated that destroying records
7 subsequent to a CPRA request may violate Cal. Penal Code § 135. Second, on September 4, 2017,
8 Petitioner requested that, should the BID conduct a search for the records, that Petitioner would like
9 the records in native format rather than PDF. *See Exhibit N.*

10 29. As of this writing, the BID has failed to provide any of the Becker emails.
11

12 **FIRST CAUSE OF ACTION**

13 **VIOLATION OF THE CALIFORNIA PUBLIC RECORDS ACT**

14 **GOV'T CODE § 6250, *et seq.***

15 30. Petitioner incorporates herein by reference the allegations of paragraphs 1 through 29
16 above, as if set forth in full.

17 31. Respondent is subject to the CPRA under California Streets & Highways Code §
18 36612. Additionally, both Respondent and its Board of Directors are subject to the CPRA as per
19 section 16.3 of its contract with the City of Los Angeles. A true and accurate copy of page 10 of
20 Respondent's contract with the City of Los Angeles is attached as Exhibit O.

21 **General principles of the California Public Records Act**

22 32. Under the California Public Records Act, § 6250 *et seq.*, all records that are
23 prepared, owned, used, or retained by any public agency, and that are not subject to the CPRA's
24 statutory exemptions to disclosure, must be made publicly available for inspection and copying
25 upon request. § 6253.

26 33. In enacting the CPRA, the legislature recognized that:

27 A requester, having no access to agency files, may be unable to
28 precisely identify the documents sought. Thus, writings may be
described by their content. The agency must then determine whether it

1 has such writings under its control and the applicability of any
2 exemption. An agency is thus obliged to search for records based on
criteria set forth in the search request.

3 *California First Amendment Coalition v. Superior Court* (1998) 67 Cal. App. 4th 159, 165-66; *see* §
4 6253(b).

5 34. Upon receiving a request, an agency must determine whether the request, in whole or
6 in part, seeks copies of disclosable records in the agency's possession. § 6253(c). An agency must
7 inform the requestor as to its determination of disclosability within ten days of the agency's receipt
8 of the request, barring statutorily-defined "unusual circumstances." § 6253(c).

9 35. The law requires that agencies make non-exempt public records available to
10 requestors "promptly" after locating them. § 6253(b). It is unlawful for an agency "to delay or
11 obstruct the inspection of public records." § 6253(d).

12 36. Under the CPRA, records may be exempted from disclosure in two ways. First, the
13 materials may be exempt from disclosure pursuant to one of the express categorical exemptions set
14 forth in § 6254, *et seq.* Second, materials may be exempted from disclosure under the "catch-all"
15 exemption set forth in § 6255, which allows a government agency to withhold records if it can
16 demonstrate, on the facts of a particular case, that the public interest served by withholding the
17 records clearly outweighs the public interest served by disclosure. § 6255(a).

18 37. Where an agency withholds responsive records on the basis of a statutory exemption,
19 "the agency . . . must disclose that fact." *Haynie v. Superior Court* (2001) 26 Cal. 4th 1061, 1072
20 (citing § 6255). Even if portions of a document are exempt from disclosure, the agency must
21 disclose the remainder of the document. § 6253(a). The agency bears the burden of justifying
22 nondisclosure. § 6255(a). In determining whether exemptions apply, courts must follow the
23 constitutional imperative that the applicability of exemptions must be construed narrowly and that
24 the people's right of access to public information must be construed broadly. Cal. Constitution, Art.
25 I, § 3(b)(2).

26 38. The CPRA requires the agency to "assist the member of the public [to] make a
27 focused and effective request that reasonably describes an identifiable record or records" by taking
28

1 steps to “[a]ssist the member of the public to identify records and information that are responsive to
2 the request or to the purpose of the request, if stated.” § 6253.1. An agency that receives a request
3 must also “[p]rovide suggestions for overcoming any practical basis for denying access to the
4 records or information sought.” *Id.*

5 39. If an agency fails to comply with these statutory provisions, the CPRA authorizes a
6 person to file a petition for writ of mandate to enforce their right to inspect or to receive a copy of
7 the record. § 6258.

8 40. Whenever it is made to appear by verified petition to the Superior Court of the
9 county where the records or some part thereof are situated that certain public records are being
10 improperly withheld from a member of the public, the court shall order the officer or person
11 charged with withholding the records to disclose the public record or show cause why they should
12 not do so. The court shall decide the case after examining the record in camera (if permitted by the
13 Evidence Code), papers filed by the parties, and any oral argument and additional evidence as the
14 court may allow. § 6259(a). If the Court finds that the failure to disclose is not justified, it shall
15 order the public official to make the record public. § 6259(b).

16 41. Public policy favors judicial enforcement of the CPRA. The CPRA contains a
17 mandatory attorney’s fee provision for the prevailing plaintiff. § 6259(d). The purpose of the
18 provision is to provide “protections and incentives for members of the public to seek judicial
19 enforcement of their right to inspect public records subject to disclosure.” (emphasis added)
20 *Filarsky v. Superior Court* (2002) 28 Cal.4th 419, 427.

21 42. A plaintiff prevails under the CPRA where the plaintiff shows that an agency
22 unlawfully denied access to records. *Community Youth Athletic Center v. City of National City*
23 (2013) 220 Cal.App.4th 1385, 1446-1447. An agency is not protected from liability merely because
24 the denial of access was due to the agency’s internal logistical problems or general neglect of its
25 duties. *Id.*

26 **General principles of the deliberative process privilege.**

27 43. The BID asserted the deliberative process privilege to withhold numerous records.
28 Thus, a preliminary discussion of that exemption is warranted.

1 44. The California Supreme Court has recognized a deliberative process privilege under
2 § 6255 to prevent injury to the quality of executive decisions. See, e.g., *California First Amendment*
3 *Coalition v. Superior Court* (1998) 67 Cal.App.4th 159, 169. The key question in every case is
4 "whether the disclosure of materials would expose an agency's decision making process in such a
5 way as to discourage candid discussion within the agency and thereby undermine the agency's
6 ability to perform its functions." *Id.* at 170 (internal citations omitted).

7 45. Not every disclosure which hampers the deliberative process implicates the
8 deliberative process privilege. Under the privilege, as under § 6255 generally, an agency claiming
9 the deliberative process privilege must show that the public interest in nondisclosure clearly
10 outweighs the public interest in disclosure. *California First Amendment Coalition v. Superior Court*
11 (1998) 67 Cal.App.4th 159, 172. Because the deliberative process privilege is subject to balancing,
12 and because an agency must show clear overbalance on the side of nondisclosure to claim the
13 privilege, the deliberative process privilege is a "limited, qualified public disclosure exemption."
14 See *Caldecott v. Superior Court* (2015) 243 Cal.App.4th 212, 226. It is insufficient for an agency to
15 merely invoke the policy underlying the deliberative process privilege to withhold records; an
16 agency must make a specific factual showing as to why the privilege is necessary to protect the
17 deliberative process in that instance. *Citizens For Open Government v. City of Lodi* (2012) 205
18 Cal.App.4th 296, 307.

19 46. Thus, the BID, in order to justify its withholding under the limited, qualified
20 deliberative process privilege, must show that disclosure of all withheld records would implicate
21 concerns regarding the deliberative process, and that the public interest in nondisclosure clearly
22 outweighs the public interest in disclosure. As will be shown below, Respondent cannot meet this
23 burden.

24 **The BID unlawfully withheld records in response to Request #1: communications with**
25 **South Park BID and the Downtown Los Angeles Neighborhood Council.**

26 47. Item (1) of Petitioner's Request #1 sought records of communications with two
27 outside entities: the South Park BID and the Downtown Los Angeles Neighborhood Council. Item
28 (2) sought emails related to BID business held by the Chairman of its Board of Directors, Mark

1 Chatoff. Respondent unlawfully withheld records in response to both items.

2 48. The BID cannot rely on the deliberative process privilege to withhold records in
3 response to Item (1) because Item (1) does not implicate communications which would expose
4 candid predecisional discussion within the agency. As stated above, the deliberative process
5 privilege is designed to protect, on a limited basis, candid discussion within the agency. Here, the
6 records withheld in response to Item #1 are communications with third-parties outside of the
7 agency, including a department of the City. Assuming, *arguendo*, the BID can otherwise meet its
8 high burden to claim the deliberative process privilege as it pertains to every record withheld in
9 response to Item (1), it is extremely unlikely these communications would "expose [Respondent's]
10 decision making process in such a way as to discourage candid discussion within the agency and
11 thereby undermine the [the BID's] ability to perform its functions." *California First Amendment*
12 *Coalition v. Superior Court* (1998) 67 Cal.App.4th 159, 170.

13 49. The BID cannot rely on the deliberate process privilege to withhold records in
14 respond to Item (1) because the public interest in communications with the City is too great for the
15 BID to show a clear overbalance on the side of nondisclosure. While the public interest in efforts to
16 influence government is always significant, in Los Angeles that interest is heightened by local
17 ordinance. *See* Los Angeles Municipal Code §§ 48.01, *et seq.* As stated in that ordinance, "the
18 citizens of Los Angeles have a right to know the identity of interests which attempt to influence
19 decisions and City government, as well as the means employed by those interests." Los Angeles
20 Municipal Code § 48.01(B)(2). Given the heightened public interest in communications with a City
21 department, the BID cannot show that the public interest in nondisclosure clearly outweighs the
22 public interest in disclosure.

23 50. The BID cannot rely on the deliberative process privilege to withhold records in
24 response to Item (1) because even assuming, *arguendo*, the records expose internal deliberation, the
25 BID waived exemptions by sharing the deliberation with third parties. If an agency discloses a
26 public record that is otherwise exempt, the disclosure shall constitute a waiver of exemptions. §
27 6254.5. Here, the records at issue are communications with the South Park BID, a nonprofit
28 corporation, and the Downtown Los Angeles Neighborhood Council, a department of the City.

1 Even if the communications contain information protected by the deliberative process privilege,
2 Respondent waived that privilege when it disclosed its deliberative process to outside entities.

3 51. The BID unlawfully withheld all records responsive to Item (2), the request for the
4 Chatoff emails. The BID claimed that it has no responsive records. That claim—that the Chairman of
5 the BID's Board of Directors did not possess even a single email relating to the operation of the
6 BID—defies belief. In all likelihood, Chatoff simply never conducted a search, whether because the
7 BID never asked or because the BID asked and Chatoff refused.

8 52. The BID has a duty to locate and provide the records in Chatoff's possession. Public
9 agencies must provide public records upon request, whether or not those records are located in a
10 private device or private account. *City of San Jose v. Superior Court* (2017) 2.Cal.5th 608 (*City of*
11 *San Jose*). Here, the BID had a duty to search for responsive emails in Chatoff's possession. The
12 BID violated the CPRA and unlawfully withheld records when it refused to search for and provide
13 Chatoff's emails.

14 **The BID unlawfully withheld records in response to Request #2: the UPC emails.**

15 53. The BID violated the CPRA when it withheld all emails between itself and UPC
16 subject to the deliberative process privilege. Petitioner requested all emails between the BID and
17 UPC, the firm retained to oversee the BID's renewal. The BID asserted the deliberative process
18 privilege to withhold all records. As discussed above, the deliberative process privilege requires a
19 significant showing as to each withheld record. Here, the BID cannot meet its burden to show that
20 all emails between the BID and UPC are subject to the deliberative process privilege. It is extremely
21 unlikely that every email and attachment sent between the BID and UPC are predecisional and
22 deliberative. Further, because the communications relate to UPC's efforts to ensure the City Council
23 passes the ordinances required to renew the BID, the public interest in the communications is
24 significant and the BID cannot show a clear overbalance on the side of nondisclosure. The BID
25 violated the CPRA and unlawfully withheld records in response to Request #2.

26 **The BID unlawfully withheld records in response to Request #3: the Becker emails.**

27 54. The BID unlawfully withheld all records responsive Request #3, the request for
28 Becker's emails. Initially, the BID claimed that no responsive records exist. When Petitioner pointed

1 out that a specific responsive email was surely sent after the request, but prior to the BID's response,
2 the BID claimed the deliberative process privilege applied, stated that it would provide the
3 identified email, and refused search for any additional emails.

4 55. The BID cannot justify its failure to provide the Becker emails. As with the Chatoff
5 emails, it defies belief that a board member does not have a single email related to the BID. As
6 discussed above, the BID has an obligation to search board members' emails, whether they exist in
7 private accounts or on private devices. Further, it is incredibly unlikely that, if the BID conducted
8 the search, every email was within the deliberative process privilege. However, given the BID's
9 initial response that no records existed and no exemptions applied, it is likely the BID failed to ever
10 conduct a search of Becker's emails. By failing to provide responsive records, the BID is denying
11 access in violation of the CPRA.

12 **Conclusion**

13 56. The BID is a multi-million dollar organization which wields significant power in the
14 City of Los Angeles—whether at City Hall via its political influence, or on the streets via its "Clean
15 & Safe Team." Despite its power, the BID is largely insulated from public oversight. In failing to
16 comply with its obligations under the CPRA, the BID has rejected one of the only oversight
17 mechanisms imposed on it by law.

18 57. By its refusal to disclose certain communications with the South Park BID and the
19 Downtown Los Angeles Neighborhood Council (likely those related to Respondent's role in
20 opposing the Skid Row Neighborhood Council formation), by its refusal to search for or provide
21 any emails from board members Chatoff and Becker, and by its refusal to disclose any of its
22 communications with UPC, the consulting firm handling the BID renewal process, Respondent has
23 violated the CPRA. The BID's unlawful secrecy must be remedied and a petition for writ should
24 issue.

25 **A WRIT OF MANDATE AND DECLARATORY RELIEF IS APPROPRIATE**

26 58. Respondent has a clear, present, ministerial duty to comply with the California
27 Constitution and Gov't Code § 6250, *et seq.*

28 59. Petitioner has performed all conditions precedent to filing this petition. There are no

1 administrative exhaustion requirements under Gov't Code § 6250, *et seq.*

2 60. Petitioner has no plain, speedy, adequate remedy in the ordinary course of law other
3 than the relief sought in this petition.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Petitioner prays as follows:

- 6 1. That this Court issue a declaration that Respondent violated the California Public
7 Records Act by its acts and omissions described in this petition.
- 8 2. That the Court issue a peremptory writ of mandate directing Respondent to locate all
9 requested records and to provide Petitioner with all requested records, except records
10 that the Court determines may lawfully be withheld.
- 11 3. That Petitioner be awarded attorney's fees and costs; and
- 12 4. For such other and further relief as the Court deems proper and just.
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- 14

15 DATED: August 13, 2018

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18 ABENICIO CISNEROS

19 Attorney for Petitioner

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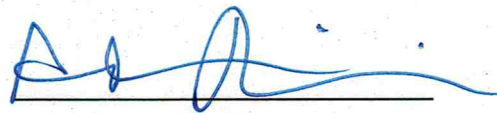
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1 knowledge, except as to those matters which are therein alleged on information and belief, and, as
2 to those matters, I also believe them to be true.

3 I declare under penalty of perjury under the laws of the State of California that the foregoing
4 is true and correct. Executed on this the 14th day of August, 2018 in Los Angeles
5 California.

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11 ADRIAN RISKIN
12 Petitioner and Plaintiff
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- EXHIBIT D: Petitioner's August 18, 2017, email to Respondent re: Request #1.
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- EXHIBIT F: Responsive Chatoff records the BID failed to provide.
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EXHIBIT A

CPRA request (FDBID.2017.05.17.a)

From: adrian@mailingaddress.org
To: [Rena Leddy <rena@fashiondistrict.org>](mailto:RenaLeddy@rena@fashiondistrict.org)
Subject: CPRA request (FDBID.2017.05.17.a)
Date: Wednesday, May 17, 2017 10:41 AM
Size: 1 KB

Good morning, Rena.

I'd like to take a look at the following material, noting that "anyone at the BID" is meant to encompass both staff and board of directors:

1. All emails between anyone at the BID and anyone at either southpark.la, dlanc.com, or anyone at either the South Park BID or DLANC using any email address whatsoever, from January 1, 2016 through May 15, 2017.
2. All emails in the possession of Mark Chatoff from 2017 that relate in any way to the operations of the BID.
3. Any emails between anyone at the BID and anyone at delsonproperties.com or anyone at Delson using any email address whatsoever, including Michael Delijani, from January 1, 2016 through May 15, 2017.

Thanks,

Adrian

EXHIBIT B

RE: CPRA request (FDBID.2017.05.17.a)

From: [Rena Leddy <rena@fashiondistrict.org>](mailto:rena@fashiondistrict.org)
To: adrian@mailingaddress.org
Subject: RE: CPRA request (FDBID.2017.05.17.a)
Date: Friday, May 26, 2017 9:47 AM
X-Delivered-To: adrian@mailingaddress.org
Size: 6 KB

Hi Adrian,

I need a little more time.

Thank you,
Rena

-----Original Message-----

From: adrian@mailingaddress.org [mailto:adrian@mailingaddress.org]
Sent: Wednesday, May 17, 2017 10:41 AM
To: Rena Leddy <rena@fashiondistrict.org>
Subject: CPRA request (FDBID.2017.05.17.a)

Good morning, Rena.

I'd like to take a look at the following material, noting that "anyone at the BID" is meant to encompass both staff and board of directors:

1. All emails between anyone at the BID and anyone at either southpark.la, dlanc.com, or anyone at either the South Park BID or DLANC using any email address whatsoever, from January 1, 2016 through May 15, 2017.
2. All emails in the possession of Mark Chatoff from 2017 that relate in any way to the operations of the BID.
3. Any emails between anyone at the BID and anyone at delsonproperties.com or anyone at Delson using any email address whatsoever, including Michael Delijani, from January 1, 2016 through May 15, 2017.

Thanks,

Adrian

Re: CPRA request (FDBID.2017.05.17.a)

From: adrian@mailingaddress.org
To: [Rena Leddy <rena@fashiondistrict.org>](mailto:RenaLeddy@fashiondistrict.org)
Subject: Re: CPRA request (FDBID.2017.05.17.a)
Date: Thursday, July 06, 2017 4:38 PM
Size: 2 KB

Hi Rena,

I wonder if you can give me some idea when you may be able to get to this one?

Thanks,

Adrian

On Fri, May 26, 2017, at 09:47 AM, Rena Leddy wrote:

Hi Adrian,

I need a little more time.

Thank you,
Rena

-----Original Message-----

From: adrian@mailingaddress.org [mailto:adrian@mailingaddress.org]
Sent: Wednesday, May 17, 2017 10:41 AM
To: Rena Leddy <rena@fashiondistrict.org>
Subject: CPRA request (FDBID.2017.05.17.a)

Good morning, Rena.

I'd like to take a look at the following material, noting that "anyone at the BID" is meant to encompass both staff and board of directors:

1. All emails between anyone at the BID and anyone at either southpark.la, dlanc.com, or anyone at either the South Park BID or DLANC using any email address whatsoever, from January 1, 2016 through May 15, 2017.
2. All emails in the possession of Mark Chatoff from 2017 that relate in any way to the operations of the BID.
3. Any emails between anyone at the BID and anyone at delsonproperties.com or anyone at Delson using any email address whatsoever, including Michael Delijani, from January 1, 2016 through May 15, 2017.

Thanks,

Adrian

RE: CPRA request (FDBID.2017.05.17.a)

From: [Rena Leddy <rena@fashiondistrict.org>](mailto:rena@fashiondistrict.org)
To: adrian@mailingaddress.org
Subject: RE: CPRA request (FDBID.2017.05.17.a)
Date: Friday, July 07, 2017 10:03 AM
X-Delivered-To: adrian@mailingaddress.org
Size: 6 KB

Working on it.

-----Original Message-----

From: adrian@mailingaddress.org [mailto:adrian@mailingaddress.org]
Sent: Thursday, July 06, 2017 4:38 PM
To: Rena Leddy <rena@fashiondistrict.org>
Subject: Re: CPRA request (FDBID.2017.05.17.a)

Hi Rena,

I wonder if you can give me some idea when you may be able to get to this one?

Thanks,

Adrian

On Fri, May 26, 2017, at 09:47 AM, Rena Leddy wrote:

Hi Adrian,

I need a little more time.

Thank you,
Rena

-----Original Message-----

From: adrian@mailingaddress.org [mailto:adrian@mailingaddress.org]
Sent: Wednesday, May 17, 2017 10:41 AM
To: Rena Leddy <rena@fashiondistrict.org>
Subject: CPRA request (FDBID.2017.05.17.a)

Good morning, Rena.

I'd like to take a look at the following material, noting that "anyone at the BID" is meant to encompass both staff and board of directors:

1. All emails between anyone at the BID and anyone at either southpark.la, dlanc.com, or anyone at either the South Park BID or DLANC using any email address whatsoever, from January 1, 2016 through May 15, 2017.
2. All emails in the possession of Mark Chatoff from 2017 that relate in any way to the operations of the BID.
3. Any emails between anyone at the BID and anyone at delsonproperties.com or anyone at Delson using any email address whatsoever, including Michael Delijani, from January 1, 2016 through May 15, 2017.

Thanks,

RE: CPRA request (FDBID.2017.05.17.a)

From: [Rena Leddy <rena@fashiondistrict.org>](mailto:rena@fashiondistrict.org)
To: adrian@mailingaddress.org
Subject: RE: CPRA request (FDBID.2017.05.17.a)
Date: Friday, July 14, 2017 3:50 PM
X-Delivered-To: adrian@mailingaddress.org
Size: 5 KB

I will need some more time.

-----Original Message-----

From: adrian@mailingaddress.org [mailto:adrian@mailingaddress.org]
Sent: Wednesday, May 17, 2017 10:41 AM
To: Rena Leddy <rena@fashiondistrict.org>
Subject: CPRA request (FDBID.2017.05.17.a)

Good morning, Rena.

I'd like to take a look at the following material, noting that "anyone at the BID" is meant to encompass both staff and board of directors:

1. All emails between anyone at the BID and anyone at either southpark.la, dlanc.com, or anyone at either the South Park BID or DLANC using any email address whatsoever, from January 1, 2016 through May 15, 2017.
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3. Any emails between anyone at the BID and anyone at delsonproperties.com or anyone at Delson using any email address whatsoever, including Michael Delijani, from January 1, 2016 through May 15, 2017.

Thanks,

Adrian

RE: CPRA request (FDBID.2017.05.17.a)

From: [Rena Leddy <rena@fashiondistrict.org>](mailto:rena@fashiondistrict.org)
To: adrian@mailingaddress.org
Subject: RE: CPRA request (FDBID.2017.05.17.a)
Date: Friday, July 14, 2017 4:26 PM
X-Delivered-To: adrian@mailingaddress.org
Size: 6 KB

Below is the completed response.

<https://www.dropbox.com/sh/y7ups1efacxaj92/AADicCgUHT6vS46k4qg7EGBoa?dl=0>

-----Original Message-----

From: adrian@mailingaddress.org [mailto:adrian@mailingaddress.org]
Sent: Wednesday, May 17, 2017 10:41 AM
To: Rena Leddy <rena@fashiondistrict.org>
Subject: CPRA request (FDBID.2017.05.17.a)

Good morning, Rena.

I'd like to take a look at the following material, noting that "anyone at the BID" is meant to encompass both staff and board of directors:

1. All emails between anyone at the BID and anyone at either southpark.la, dlanc.com, or anyone at either the South Park BID or DLANC using any email address whatsoever, from January 1, 2016 through May 15, 2017.
2. All emails in the possession of Mark Chatoff from 2017 that relate in any way to the operations of the BID.
3. Any emails between anyone at the BID and anyone at delsonproperties.com or anyone at Delson using any email address whatsoever, including Michael Delijani, from January 1, 2016 through May 15, 2017.

Thanks,

Adrian

EXHIBIT C

Re: CPRA request (FDBID.2017.05.17.a)

From: adrian@mailingaddress.org
To: [Rena Leddy <rena@fashiondistrict.org>](mailto:RenaLeddy@fashiondistrict.org)
Subject: Re: CPRA request (FDBID.2017.05.17.a)
Date: Friday, July 14, 2017 5:22 PM
Size: 2 KB

Thanks, Rena.

Have you claimed any exemptions? Or are you claiming, e.g., that Mark Chatoff has no BID emails in his possession?

Thanks,

Adrian

On Fri, Jul 14, 2017, at 04:26 PM, Rena Leddy wrote:

Below is the completed response.

<https://www.dropbox.com/sh/y7ups1efacxaj92/AADicCgUHT6vS46k4qg7EGBoa?dl=0>

-----Original Message-----

From: adrian@mailingaddress.org [mailto:adrian@mailingaddress.org]
Sent: Wednesday, May 17, 2017 10:41 AM
To: Rena Leddy <rena@fashiondistrict.org>
Subject: CPRA request (FDBID.2017.05.17.a)

Good morning, Rena.

I'd like to take a look at the following material, noting that "anyone at the BID" is meant to encompass both staff and board of directors:

1. All emails between anyone at the BID and anyone at either southpark.la, dlanc.com, or anyone at either the South Park BID or DLANC using any email address whatsoever, from January 1, 2016 through May 15, 2017.
2. All emails in the possession of Mark Chatoff from 2017 that relate in any way to the operations of the BID.
3. Any emails between anyone at the BID and anyone at delsonproperties.com or anyone at Delson using any email address whatsoever, including Michael Delijani, from January 1, 2016 through May 15, 2017.

Thanks,

Adrian

RE: CPRA request (FDBID.2017.05.17.a)

From: [Rena Leddy <rena@fashiondistrict.org>](mailto:rena@fashiondistrict.org)
To: adrian@mailingaddress.org
Subject: RE: CPRA request (FDBID.2017.05.17.a)
Date: Monday, July 17, 2017 1:23 PM
X-Delivered-To: adrian@mailingaddress.org
Size: 7 KB

All non-exempt records have been submitted. Any exemptions are due to deliberative process.

-----Original Message-----

From: adrian@mailingaddress.org [mailto:adrian@mailingaddress.org]
Sent: Friday, July 14, 2017 5:23 PM
To: Rena Leddy <rena@fashiondistrict.org>
Subject: Re: CPRA request (FDBID.2017.05.17.a)

Thanks, Rena.

Have you claimed any exemptions? Or are you claiming, e.g., that Mark Chatoff has no BID emails in his possession?

Thanks,

Adrian

On Fri, Jul 14, 2017, at 04:26 PM, Rena Leddy wrote:

Below is the completed response.

<https://www.dropbox.com/sh/y7ups1efacxaj92/AADicCgUHT6vS46k4qg7EGBoa?dl=0>

-----Original Message-----

From: adrian@mailingaddress.org [mailto:adrian@mailingaddress.org]
Sent: Wednesday, May 17, 2017 10:41 AM
To: Rena Leddy <rena@fashiondistrict.org>
Subject: CPRA request (FDBID.2017.05.17.a)

Good morning, Rena.

I'd like to take a look at the following material, noting that "anyone at the BID" is meant to encompass both staff and board of directors:

1. All emails between anyone at the BID and anyone at either southpark.la, dlanc.com, or anyone at either the South Park BID or DLANC using any email address whatsoever, from January 1, 2016 through May 15, 2017.
2. All emails in the possession of Mark Chatoff from 2017 that relate in any way to the operations of the BID.
3. Any emails between anyone at the BID and anyone at delsonproperties.com or anyone at Delson using any email address whatsoever, including Michael Delijani, from January 1, 2016 through May 15, 2017.

Thanks,

Adrian

Re: CPRA request (FDBID.2017.05.17.a)

From: adrian@mailingaddress.org
To: [Rena Leddy <rena@fashiondistrict.org>](mailto:RenaLeddy@fashiondistrict.org)
Subject: Re: CPRA request (FDBID.2017.05.17.a)
Date: Monday, July 17, 2017 1:38 PM
Size: 4 KB

Hi Rena,

Can you please state explicitly whether or not you have withheld actual emails due to "deliberative process."

If you have, can you please state the name and title of the person responsible for deciding that every single email in the possession of Mark Chatoff that relates to the operation of the BID is exempt due to "deliberative process?"

Also, if you have withheld such emails on the basis of a "deliberative process" exemption, can you please let me know how you determined that whatever public interest might be protected by withholding the records "clearly" outweighs the public interest in gaining access to them?

As I'm sure you're aware, there is no "deliberative process" exemption in CPRA. Claims of "deliberative process" are actually invocations of section 6255(a), which requires such a weighing of interests. As you haven't even asked me what public interests might be served by the revelation of these records, it's implausible that you've complied with your duties under CPRA.

Just for instance, the public has an interest in knowing when you inform your board members of meeting dates. It's as exceedingly implausible that Mark Chatoff has deleted all such announcements as it is that there's any public interest whatsoever in withholding them. Also, there's a huge public interest in understanding how your Board directs you on positions to take with respect to City politics. I can list more examples if necessary, but perhaps you could let me know how it is that the public interest in withholding the emails ***clearly*** outweighs these interests.

Thanks,

Adrian

On Mon, Jul 17, 2017, at 01:23 PM, Rena Leddy wrote:

All non-exempt records have been submitted. Any exemptions are due to deliberative process.

-----Original Message-----

From: adrian@mailingaddress.org [mailto:adrian@mailingaddress.org]
Sent: Friday, July 14, 2017 5:23 PM
To: Rena Leddy <rena@fashiondistrict.org>
Subject: Re: CPRA request (FDBID.2017.05.17.a)

Thanks, Rena.

Have you claimed any exemptions? Or are you claiming, e.g., that Mark Chatoff has no BID emails in his possession?

RE: CPRA request (FDBID.2017.05.17.a)

From: [Rena Leddy <rena@fashiondistrict.org>](mailto:rena@fashiondistrict.org)
To: adrian@mailingaddress.org
Subject: RE: CPRA request (FDBID.2017.05.17.a)
Date: Monday, July 17, 2017 4:27 PM
X-Delivered-To: adrian@mailingaddress.org
Size: 10 KB

I have determined that the BID has no records responsive to requests #2 and #3. Regarding request #1, I have determined that all non-exempt records have been produced.

-----Original Message-----

From: adrian@mailingaddress.org [mailto:adrian@mailingaddress.org]
Sent: Monday, July 17, 2017 1:38 PM
To: Rena Leddy <rena@fashiondistrict.org>
Subject: Re: CPRA request (FDBID.2017.05.17.a)

Hi Rena,

Can you please state explicitly whether or not you have withheld actual emails due to "deliberative process."

If you have, can you please state the name and title of the person responsible for deciding that every single email in the possession of Mark Chatoff that relates to the operation of the BID is exempt due to "deliberative process?"

Also, if you have withheld such emails on the basis of a "deliberative process" exemption, can you please let me know how you determined that whatever public interest might be protected by withholding the records "clearly" outweighs the public interest in gaining access to them?

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Thanks,

Adrian

On Mon, Jul 17, 2017, at 01:23 PM, Rena Leddy wrote:

All non-exempt records have been submitted. Any exemptions are due to deliberative process.

-----Original Message-----

From: adrian@mailingaddress.org [mailto:adrian@mailingaddress.org]
Sent: Friday, July 14, 2017 5:23 PM
To: Rena Leddy <rena@fashiondistrict.org>
Subject: Re: CPRA request (FDBID.2017.05.17.a)

Thanks, Rena.

Have you claimed any exemptions? Or are you claiming, e.g., that Mark Chatoff has no BID emails in his possession?

Re: CPRA request (FDBID.2017.05.17.a)

From: adrian@mailingaddress.org
To: [Rena Leddy <rena@fashiondistrict.org>](mailto:RenaLeddy@fashiondistrict.org)
Subject: Re: CPRA request (FDBID.2017.05.17.a)
Date: Monday, July 17, 2017 4:29 PM
Size: 5 KB

Thanks, Rena. This doesn't answer my question, which is whether or not there are in fact records responsive to #1 which you have actually withheld. Please clarify.

Thanks,

Adrian

On Mon, Jul 17, 2017, at 04:27 PM, Rena Leddy wrote:

I have determined that the BID has no records responsive to requests #2 and #3. Regarding request #1, I have determined that all non-exempt records have been produced.

-----Original Message-----

From: adrian@mailingaddress.org [mailto:adrian@mailingaddress.org]
Sent: Monday, July 17, 2017 1:38 PM
To: Rena Leddy <rena@fashiondistrict.org>
Subject: Re: CPRA request (FDBID.2017.05.17.a)

Hi Rena,

Can you please state explicitly whether or not you have withheld actual emails due to "deliberative process."

If you have, can you please state the name and title of the person responsible for deciding that every single email in the possession of Mark Chatoff that relates to the operation of the BID is exempt due to "deliberative process?"

Also, if you have withheld such emails on the basis of a "deliberative process" exemption, can you please let me know how you determined that whatever public interest might be protected by withholding the records "clearly" outweighs the public interest in gaining access to them?

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Just for instance, the public has an interest in knowing when you inform your board members of meeting dates. It's as exceedingly implausible that Mark Chatoff has deleted all such announcements as it is that there's any public interest whatsoever in withholding them. Also, there's a huge public interest in understanding how your Board directs you on positions to take with respect to City politics. I can list more examples if necessary, but perhaps you could let me know how it is that the public interest in withholding the emails ***clearly*** outweighs these interests.

Re: CPRA request (FDBID.2017.05.17.a)

From: adrian@mailingaddress.org
To: [Rena Leddy <rena@fashiondistrict.org>](mailto:rena@fashiondistrict.org)
Subject: Re: CPRA request (FDBID.2017.05.17.a)
Date: Thursday, July 27, 2017 12:05 PM
Size: 6 KB

Hi Rena,

I'm just wondering what's up with this?

Thanks,

Adrian

On Mon, Jul 17, 2017, at 04:29 PM, adrian@mailingaddress.org wrote:

Thanks, Rena. This doesn't answer my question, which is whether or not there are in fact records responsive to #1 which you have actually withheld. Please clarify.

Thanks,

Adrian

On Mon, Jul 17, 2017, at 04:27 PM, Rena Leddy wrote:

I have determined that the BID has no records responsive to requests #2 and #3. Regarding request #1, I have determined that all non-exempt records have been produced.

-----Original Message-----

From: adrian@mailingaddress.org [mailto:adrian@mailingaddress.org]

Sent: Monday, July 17, 2017 1:38 PM

To: Rena Leddy <rena@fashiondistrict.org>

Subject: Re: CPRA request (FDBID.2017.05.17.a)

Hi Rena,

Can you please state explicitly whether or not you have withheld actual emails due to "deliberative process."

If you have, can you please state the name and title of the person responsible for deciding that every single email in the possession of Mark Chatoff that relates to the operation of the BID is exempt due to "deliberative process?"

Also, if you have withheld such emails on the basis of a "deliberative process" exemption, can you please let me know how you determined that whatever public interest might be protected by withholding the records "clearly" outweighs the public interest in gaining access to them?

As I'm sure you're aware, there is no "deliberative process" exemption in CPRA. Claims of "deliberative process" are actually invocations of section 6255(a), which requires such a weighing of interests. As you haven't even asked me what public interests might be served by the revelation of these records, it's implausible that you've complied with your duties under CPRA.

EXHIBIT D

Re: CPRA request (FDBID.2017.05.17.a)

From: adrian@mailingaddress.org
To: [Rena Leddy <rena@fashiondistrict.org>](mailto:rena@fashiondistrict.org)
Subject: Re: CPRA request (FDBID.2017.05.17.a)
Date: Friday, August 18, 2017 5:49 PM
Size: 6 KB

Hi Rena.

Recall that you told me that Mark Chatoff had no responsive records in his possession, just as you did with Linda Becker. You've since walked back your claim about Linda Becker, so I'm thinking that maybe Mark Chatoff has some responsive records as well. Can you please ask him to check again and also not to delete any responsive records irrespective of your opinion on whether they're exempt until we get this matter thoroughly hashed out?

Thanks,

Adrian

On Mon, Jul 17, 2017, at 04:27 PM, Rena Leddy wrote:

I have determined that the BID has no records responsive to requests #2 and #3. Regarding request #1, I have determined that all non-exempt records have been produced.

-----Original Message-----

From: adrian@mailingaddress.org [mailto:adrian@mailingaddress.org]
Sent: Monday, July 17, 2017 1:38 PM
To: Rena Leddy <rena@fashiondistrict.org>
Subject: Re: CPRA request (FDBID.2017.05.17.a)

Hi Rena,

Can you please state explicitly whether or not you have withheld actual emails due to "deliberative process."

If you have, can you please state the name and title of the person responsible for deciding that every single email in the possession of Mark Chatoff that relates to the operation of the BID is exempt due to "deliberative process?"

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As I'm sure you're aware, there is no "deliberative process" exemption in CPRA. Claims of "deliberative process" are actually invocations of section 6255(a), which requires such a weighing of interests. As you haven't even asked me what public interests might be served by the revelation of these records, it's implausible that you've complied with your duties under CPRA.

Just for instance, the public has an interest in knowing when you inform your board members of meeting dates. It's as exceedingly implausible that Mark Chatoff has deleted all such announcements as it is that there's any public interest whatsoever in withholding them. Also,

there's a huge public interest in understanding how your Board directs you on positions to take with respect to City politics. I can list more examples if necessary, but perhaps you could let me know how it is that the public interest in withholding the emails ***clearly*** outweighs these interests.

Thanks,

Adrian

On Mon, Jul 17, 2017, at 01:23 PM, Rena Leddy wrote:

All non-exempt records have been submitted. Any exemptions are due to deliberative process.

-----Original Message-----

From: adrian@mailingaddress.org [mailto:adrian@mailingaddress.org]
Sent: Friday, July 14, 2017 5:23 PM
To: Rena Leddy <rena@fashiondistrict.org>
Subject: Re: CPRA request (FDBID.2017.05.17.a)

Thanks, Rena.

Have you claimed any exemptions? Or are you claiming, e.g., that Mark Chatoff has no BID emails in his possession?

Thanks,

Adrian

On Fri, Jul 14, 2017, at 04:26 PM, Rena Leddy wrote:

Below is the completed response.

<https://www.dropbox.com/sh/y7ups1efacxaj92/AADicCgUHT6vS46k4qg7EGBoa?dl=0>

-----Original Message-----

From: adrian@mailingaddress.org [mailto:adrian@mailingaddress.org]
Sent: Wednesday, May 17, 2017 10:41 AM
To: Rena Leddy <rena@fashiondistrict.org>
Subject: CPRA request (FDBID.2017.05.17.a)

Good morning, Rena.

I'd like to take a look at the following material, noting that "anyone at the BID" is meant to encompass both staff and board of directors:

1. All emails between anyone at the BID and anyone at either southpark.la, dlanc.com, or anyone at either the South Park BID or DLANC using any email address whatsoever, from January 1, 2016 through May 15, 2017.
2. All emails in the possession of Mark Chatoff from 2017 that relate in any way to the operations of the BID.
3. Any emails between anyone at the BID and anyone at delsonproperties.com or anyone at Delson using any email address whatsoever, including Michael Delijani, from January 1, 2016 through May 15, 2017.

2/17/2018

Re: CPRA request (FDBID.2017.05.17.a) | FastMail

Thanks,
Adrian

EXHIBIT E

Re: CPRA request (FDBID.2017.05.17.a)

From: adrian@mailingaddress.org
To: markchatoff@pacbell.net
Cc: [Rena Leddy <rena@fashiondistrict.org>](mailto:RenaLeddy@fashiondistrict.org)
Subject: Re: CPRA request (FDBID.2017.05.17.a)
Date: Friday, August 18, 2017 5:51 PM
Size: 2 KB

Good evening, Mr. Chatoff.

I'm just writing to ask that you refrain from deleting any 2017 emails in your possession that relate to the operation of the Fashion District BID until Rena and I finish our discussion on whether they are universally exempt from production under the CPRA or not.

Also, if you have copies of any emails where she asked you to search your emails for responsive records it'd be lovely if you could send me copies as well.

Thanks so much for your help,

Adrian Riskin

On Fri, May 26, 2017, at 09:47 AM, Rena Leddy wrote:

Hi Adrian,

I need a little more time.

Thank you,
Rena

-----Original Message-----

From: adrian@mailingaddress.org [mailto:adrian@mailingaddress.org]
Sent: Wednesday, May 17, 2017 10:41 AM
To: Rena Leddy <rena@fashiondistrict.org>
Subject: CPRA request (FDBID.2017.05.17.a)

Good morning, Rena.

I'd like to take a look at the following material, noting that "anyone at the BID" is meant to encompass both staff and board of directors:

1. All emails between anyone at the BID and anyone at either southpark.la, dlanc.com, or anyone at either the South Park BID or DLANC using any email address whatsoever, from January 1, 2016 through May 15, 2017.
2. All emails in the possession of Mark Chatoff from 2017 that relate in any way to the operations of the BID.
3. Any emails between anyone at the BID and anyone at delsonproperties.com or anyone at Delson using any email address whatsoever, including Michael Delijani, from January 1, 2016 through May 15, 2017.

Thanks,

Adrian

EXHIBIT F

From: [Rena Leddy](#)
To: [Mark Chatoff](#)
Subject: Re: Industrial BID meeting agenda
Date: Saturday, March 25, 2017 8:55:22 AM

It's at 10:30 and the address is on the agenda. I think it's 733 Crocker.
I can go with you.

Rena Masten Leddy
Executive Director
LA Fashion District
(213) 488-1153

On Mar 25, 2017, at 8:37 AM, Mark Chatoff <markchatoff@pacbell.net> wrote:

What time and where?

Mark

Sent via the Samsung Galaxy S® 6, an AT&T 4G LTE smartphone

----- Original message -----

From: Rena Leddy <rena@fashiondistrict.org>
Date: 3/25/17 8:15 AM (GMT-08:00)
To: Estela Lopez <ELopez@centralcityeast.org>
Cc: Markchatoff@pacbell.net
Subject: Re: Industrial BID meeting agenda

Estela,
Thank you for remembering. Mark, let me know if you want to attend.

Rena Masten Leddy
Executive Director
LA Fashion District
(213) 488-1153

On Mar 24, 2017, at 10:33 PM, Estela Lopez <ELopez@centralcityeast.org> wrote:

Hey Mark. Nice seeing you again today. Here, as promised, is our agenda for Tuesday. As you can see, we have the Metro presentation you are interested in. We also have the main proponent of the Skid Row Neighborhood Council coming. And lastly, the Orange County developer

who owns the historic Catalina Swimwear Building at 440 S. San Pedro
and is doing an adaptive reuse project converting it to market rate lofts.

Hope you can make it. Have a great weekend.

Cordially,

Estela Lopez, Executive Director
Central City East Association (CCEA)
Downtown Industrial District BID
725 Crocker St.
Los Angeles, CA 90021
213 228 8484

<3-28-17 DID.pdf>

From: [Rena Leddy](#)
To: [Ronny Bensimon](#); [Bradley A. Luster](#); [Jim Mellano](#); [Mark Chatoff \(mark@californiaflowermall.com\)](#); [John Van Den Akker](#); [Scott Yamabe](#); ["Darrin Olson"](#); ["Dean Nucich"](#); [Adrian Szabo](#); [Joshua Foley \(JFoley@essex.com\)](#)
Subject: Your property & Skid Row Neighborhood Council
Date: Monday, March 20, 2017 12:24:00 PM
Attachments: [Letter to DONE31717.pdf](#)

Dear Fashion District Stakeholder,

A group of stakeholders in Skid Row is trying to create a Neighborhood Council which would splinter from the Downtown Neighborhood Council (DLANC). There will be an election April 6th. The boundaries are 3rd to 7th and Main to Alameda. (It is unclear if it is both sides of Main and 7th.)

Attached is a letter sent by attorney Rocky Delgadillo on behalf of property owners in the proposed new neighborhood council who are petitioning that the City postpone the election, now scheduled for April 6. These owners have formed an entity that engaged Rocky for this effort. The group is called United Downtown LA LLC. This proposal to create a new, separate neighborhood council between Main/Alameda/3rd/7th was approved by the City and will have an election on April 6 unless the group is successful in obtaining a postponement. Rocky has documented the many deficiencies in the application. There was absolutely no outreach to the businesses and property owners who would be affected.

The Department of Neighborhood Empowerment is the City department that oversees neighborhood councils. **Rocky will attend a meeting today at 1 p.m. and will testify.** I will be there also.

Additionally, there will be another meeting on Wednesday that I will forward you that information. I encourage you to call Councilmember Huizar.

Please call me if you need additional information. I can be reached on my cell phone if I'm not in the office.

Rena Masten Leddy, Executive Director
LA Fashion District
110 E 9th Street Suite A 1175
Los Angeles, CA 90079

tel: 213-488-1153 x 712
fax: 213-488-5159
cell: 310-600-3247
www.fashiondistrict.org

From: [Rena Leddy](#)
To: [Rena Leddy](#)
Bcc: [Kayhan Shakib \(kayhan@shakib.com\)](#); [Mark Cohen](#); [Brian Taban](#); [Bradley A. Luster](#); [Debbie Welsch](#); [Elisa Keller](#); [Jessica Lewensztain](#); [John Remeny](#); [Laurie Rosen](#); [Laurie Sale](#); [Linda Becker](#); [Ikkorbatov@gmail.com](#); [Mark Chatoff \(mark@californiaflowermall.com\)](#); [Mark Levy](#); [Matthew Haverim](#); [Steve Hirsh](#); [Suzette Wachtel](#); [Yul Kwon](#)
Subject: FW: Skid Row Election Pop up Poll
Date: Tuesday, March 28, 2017 3:02:00 PM
Importance: High

We just got confirmed for a pop up poll for the Skid Row Neighborhood Council (SRNC) Election:

Thursday, March 30 from 11 am - 2 pm

LA Fashion District BID
110 E 9th Street Suite A 1175
Los Angeles, CA 90079

This election is open to all stakeholders within the boundaries of the Downtown Neighborhood Council, the Historic Cultural Neighborhood Council and the proposed SRNC (proposed boundaries are from Main to Alameda and 3rd to 7th Street).

People will be able to register and vote right here on Thursday. **Please help us get the word out and send folks over to vote.**

If you can't make it on Thursday:

1. Vote Online beginning 3/28 at 5 p.m. (register here: <http://empowerla.org/elections/srnc17/>)
2. Vote in person:
 - On 4/3 between 11 – 2 p.m. at Downtown Industrial BID, 725 Crocker Street, LA, CA 90021
 - On 4/6 between 3-7 p.m. at James Wood Community Center, 400 east 5th Street, LA, CA 90021

Voters will need the following documentation:

- A photo ID that establishes your identity
- Documentation that shows that you live, work, own or have ongoing participation locally (in some cases, your photo ID may cover both requirements). Whatever you provide must show an address within the Neighborhood Council boundaries. For more information, see: https://docs.google.com/document/d/1H9rSoAaEVR2yqR9uIVdzOGchIC3jz3l_7hSEuc8kkw/edit

Rena Masten Leddy, Executive Director

LA Fashion District

110 E 9th Street Suite A 1175

Los Angeles, CA 90079

tel: 213-488-1153 x 712

fax: 213-488-5159

cell: 310-600-3247

www.fashiondistrict.org

EXHIBIT G

CPRA request (FDBID.2017.07.07.b)

From: adrian@emailuser.net
To: [Rena Leddy <rena@fashiondistrict.org>](mailto:RenaLeddy@fashiondistrict.org)
Subject: CPRA request (FDBID.2017.07.07.b)
Date: Friday, July 07, 2017 6:39 PM
Size: 804 B

Good afternoon, Rena.

I'd like to see all emails between anyone at UPC and anyone at the BID (staff and board) exclusive of you from January 1, 2017 through whenever you comply with this request. I need these in either native format with attachments included or in that specific PDF format you use which includes embedded attachments.

Thanks for your help,

Adrian

EXHIBIT H

EXHIBIT "A"

SCOPE OF SERVICES

Thank you for your interest in Urban Place Consulting Group and our consulting services. At your request we have developed the following proposal for BID renewal consulting services. The budget defined in this proposal is based upon DPOA staff assuming responsibility for the majority of the database development and property owner communications, including managing both the petition and ballot drives.

Urban Place Consulting will be primarily responsible for the following areas:

- Attending/Facilitating Steering Committee Meetings
- Refining BID budget for inclusion in the Management Plan
- Refining property database for management plan and engineers report purposes
- Refining Assessment Methodology and developing assessment methodology options.
- Analyzing current benefit zones and making recommendations for changes
- Creating a multi-year Management Plan and Engineers Report
- Obtaining City Clerk approval of Management Plan and Engineer's Report.
- Testifying at Council committee meetings and Council meetings as necessary.

The total budget for the above services for the development of a management plan and engineer's report is \$55,712.20 which includes \$49,220 of consultant labor, \$6000 of sub-consultant, engineer labor and an administrative budget of \$492.20. The proposed budget is further detailed in the attached labor matrix. The budget is also based on ten steering committee meetings. If fewer meetings or more meetings are necessary, add or subtract at the rate of \$700 per meeting if two members of Urban Place attend.

EXHIBIT I

RE: CPRA request (FDBID.2017.07.07.b)

From: [Rena Leddy <rena@fashiondistrict.org>](mailto:rena@fashiondistrict.org)
To: adrian@emailuser.net
Subject: RE: CPRA request (FDBID.2017.07.07.b)
Date: Monday, July 17, 2017 1:34 PM
X-Delivered-To: adrian@emailuser.net
Size: 6 KB

Adrian,

I have determined that your CPRA request dated July 7, 2017 seeks some records which are exempt from disclosure as deliberative process. However, all non-exempt records, and records for which exempt information can be reasonably segregated and redacted, will be produced in the order in which your CPRA request was received. I estimate we can produce these within the next two weeks.

Regards,
Rena

-----Original Message-----

From: adrian@emailuser.net [mailto:adrian@emailuser.net]
Sent: Friday, July 07, 2017 6:40 PM
To: Rena Leddy <rena@fashiondistrict.org>
Subject: CPRA request (FDBID.2017.07.07.b)

Good afternoon, Rena.

I'd like to see all emails between anyone at UPC and anyone at the BID (staff and board) exclusive of you from January 1, 2017 through whenever you comply with this request. I need these in either native format with attachments included or in that specific PDF format you use which includes embedded attachments.

Thanks for your help,

Adrian

EXHIBIT J

Re: CPRA request (FDBID.2017.07.07.b)

From: adrian@emailuser.net
To: [Rena Leddy <rena@fashiondistrict.org>](mailto:rena@fashiondistrict.org)
Subject: Re: CPRA request (FDBID.2017.07.07.b)
Date: Monday, July 17, 2017 1:41 PM
Size: 2 KB

Thanks for the update, Rena.

I think that claims of "deliberative process" as an exemption here can't stand up to the primacy of the public interest in understanding how the BID and UPC lobby the City in support of the various ordinances which must be passed by Council to renew your BID. I hope you will take the statements in LAMC 48.01 about this interest into account before making any claims about the public interest in withholding these communications. As I'm sure you're aware, "public interest" is not an exemption allowed by CPRA and Section 6255(a) requires a weighing of interests.

Thanks again for your help,

Adrian

On Mon, Jul 17, 2017, at 01:34 PM, Rena Leddy wrote:

Adrian,

I have determined that your CPRA request dated July 7, 2017 seeks some records which are exempt from disclosure as deliberative process. However, all non-exempt records, and records for which exempt information can be reasonably segregated and redacted, will be produced in the order in which your CPRA request was received. I estimate we can produce these within the next two weeks.

Regards,
Rena

-----Original Message-----

From: adrian@emailuser.net [mailto:adrian@emailuser.net]
Sent: Friday, July 07, 2017 6:40 PM
To: Rena Leddy <rena@fashiondistrict.org>
Subject: CPRA request (FDBID.2017.07.07.b)

Good afternoon, Rena.

I'd like to see all emails between anyone at UPC and anyone at the BID (staff and board) exclusive of you from January 1, 2017 through whenever you comply with this request. I need these in either native format with attachments included or in that specific PDF format you use which includes embedded attachments.

Thanks for your help,

Adrian

RE: CPRA request (FDBID.2017.07.07.b)

From: [Rena Leddy <rena@fashiondistrict.org>](mailto:rena@fashiondistrict.org)
To: adrian@emailuser.net
Subject: RE: CPRA request (FDBID.2017.07.07.b)
Date: Monday, July 17, 2017 4:12 PM
X-Delivered-To: adrian@emailuser.net
Size: 7 KB

I have determined again that the exemption raised applies.

-----Original Message-----

From: adrian@emailuser.net [mailto:adrian@emailuser.net]
Sent: Monday, July 17, 2017 1:42 PM
To: Rena Leddy <rena@fashiondistrict.org>
Subject: Re: CPRA request (FDBID.2017.07.07.b)

Thanks for the update, Rena.

I think that claims of "deliberative process" as an exemption here can't stand up to the primacy of the public interest in understanding how the BID and UPC lobby the City in support of the various ordinances which must be passed by Council to renew your BID. I hope you will take the statements in LAMC 48.01 about this interest into account before making any claims about the public interest in withholding these communications. As I'm sure you're aware, "public interest" is not an exemption allowed by CPRA and Section 6255(a) requires a weighing of interests.

Thanks again for your help,

Adrian

On Mon, Jul 17, 2017, at 01:34 PM, Rena Leddy wrote:

Adrian,

I have determined that your CPRA request dated July 7, 2017 seeks some records which are exempt from disclosure as deliberative process. However, all non-exempt records, and records for which exempt information can be reasonably segregated and redacted, will be produced in the order in which your CPRA request was received. I estimate we can produce these within the next two weeks.

Regards,
Rena

-----Original Message-----

From: adrian@emailuser.net [mailto:adrian@emailuser.net]
Sent: Friday, July 07, 2017 6:40 PM
To: Rena Leddy <rena@fashiondistrict.org>
Subject: CPRA request (FDBID.2017.07.07.b)

Good afternoon, Rena.

I'd like to see all emails between anyone at UPC and anyone at the BID (staff and board) exclusive of you from January 1, 2017 through whenever you comply with this request. I need these in either native format with attachments included or in that specific PDF format you use which includes embedded attachments.

Thanks for your help,

Re: CPRA request (FDBID.2017.07.07.b)

From: adrian@emailuser.net
To: [Rena Leddy <rena@fashiondistrict.org>](mailto:rena@fashiondistrict.org)
Subject: Re: CPRA request (FDBID.2017.07.07.b)
Date: Monday, July 17, 2017 4:14 PM
Size: 3 KB

Thanks for the information, Rena. Do you mind explaining how you determined that whatever public interest you're protecting by withholding these records ***clearly*** outweighs the public interest in releasing them as described in LAMC 48.01?

thanks,

Adrian

On Mon, Jul 17, 2017, at 04:12 PM, Rena Leddy wrote:

I have determined again that the exemption raised applies.

-----Original Message-----

From: adrian@emailuser.net [mailto:adrian@emailuser.net]
Sent: Monday, July 17, 2017 1:42 PM
To: Rena Leddy <rena@fashiondistrict.org>
Subject: Re: CPRA request (FDBID.2017.07.07.b)

Thanks for the update, Rena.

I think that claims of "deliberative process" as an exemption here can't stand up to the primacy of the public interest in understanding how the BID and UPC lobby the City in support of the various ordinances which must be passed by Council to renew your BID. I hope you will take the statements in LAMC 48.01 about this interest into account before making any claims about the public interest in withholding these communications. As I'm sure you're aware, "public interest" is not an exemption allowed by CPRA and Section 6255(a) requires a weighing of interests.

Thanks again for your help,

Adrian

On Mon, Jul 17, 2017, at 01:34 PM, Rena Leddy wrote:

Adrian,

I have determined that your CPRA request dated July 7, 2017 seeks some records which are exempt from disclosure as deliberative process. However, all non-exempt records, and records for which exempt information can be reasonably segregated and redacted, will be produced in the order in which your CPRA request was received. I estimate we can produce these within the next two weeks.

Regards,
Rena

-----Original Message-----

From: adrian@emailuser.net [mailto:adrian@emailuser.net]
Sent: Friday, July 07, 2017 6:40 PM

EXHIBIT K

Re: CPRA request (FDBID.2017.07.07.b)

From: adrian@emailuser.net
To: [Rena Leddy <rena@fashiondistrict.org>](mailto:rena@fashiondistrict.org)
Subject: Re: CPRA request (FDBID.2017.07.07.b)
Date: Friday, August 18, 2017 8:46 AM
Size: 2 KB

Hi Rena,

I'm just wondering what's up with this one.

Thanks,

Adrian

On Mon, Jul 17, 2017, at 01:34 PM, Rena Leddy wrote:

Adrian,

I have determined that your CPRA request dated July 7, 2017 seeks some records which are exempt from disclosure as deliberative process. However, all non-exempt records, and records for which exempt information can be reasonably segregated and redacted, will be produced in the order in which your CPRA request was received. I estimate we can produce these within the next two weeks.

Regards,
Rena

-----Original Message-----

From: adrian@emailuser.net [mailto:adrian@emailuser.net]
Sent: Friday, July 07, 2017 6:40 PM
To: Rena Leddy <rena@fashiondistrict.org>
Subject: CPRA request (FDBID.2017.07.07.b)

Good afternoon, Rena.

I'd like to see all emails between anyone at UPC and anyone at the BID (staff and board) exclusive of you from January 1, 2017 through whenever you comply with this request. I need these in either native format with attachments included or in that specific PDF format you use which includes embedded attachments.

Thanks for your help,

Adrian

CPRA request (FDBID.2017.07.07.b)

From: [LA Fashion District <info@fashiondistrict.org>](mailto:info@fashiondistrict.org)
To: adrian@mailingaddress.org, adrian@emailuser.net, adrian@a-spectre-is-haunting-los-angeles.net,
ariskin@whittier.edu
Subject: CPRA request (FDBID.2017.07.07.b)
Date: Friday, October 13, 2017 4:24 PM
X-Delivered-To: adrian@mailingaddress.org
Size: 9 KB

Good Afternoon –

On October 6th you received an email stating we had records responsive to CPRA request FDBID.2017.07.07.b. In processing the request, I mistook FDBID.2017.07.07.b with request FDBID.2017.07.07.c which had already been fulfilled (8/25/17). At this time Rena Leddy has determined that your CPRA request FDBID.2017.07.07.b seeks records which are exempt from disclosure under the CPRA because they constitute deliberative process privilege and we have no records responsive. My apologies for any confusion, I will be diligent in responding moving forward.

Thank you

Re: CPRA request (FDBID.2017.07.07.b)

From: adrian@mailingaddress.org
To: [Rena Leddy <rena@fashiondistrict.org>](mailto:rena@fashiondistrict.org)
Subject: Re: CPRA request (FDBID.2017.07.07.b)
Date: Friday, October 13, 2017 4:28 PM
Size: 2 KB

Hi Rena,

I just want to confirm that you are claiming that all emails between anyone at the BID, staff and board, are exempt from disclosure. In particular, you're claiming that the public interest in withholding this material ***clearly*** outweighs the public interest in releasing it. If you have satisfied your duties under the CPRA with respect to this exemption, you ***must*** have used some conception of the public interest in releasing this material. Can you please tell me what it was?

Thanks for your help,

Adrian

On Fri, Oct 13, 2017, at 04:24 PM, LA Fashion District wrote:

Good Afternoon -

On October 6th you received an email stating we had records responsive to CPRA request FDBID.2017.07.07.b. In processing the request, I mistook FDBID.2017.07.07.b with request FDBID.2017.07.07.c which had already been fulfilled (8/25/17). At this time Rena Leddy has determined that your CPRA request FDBID.2017.07.07.b seeks records which are exempt from disclosure under the CPRA because they constitute deliberative process privilege and we have no records responsive. My apologies for any confusion, I will be diligent in responding moving forward.

Thank you

EXHIBIT L

CPRA request (FDBID.2017.07.31.b)

From: adrian@emailuser.net
To: [Rena Leddy <rena@fashiondistrict.org>](mailto:RenaLeddy@fashiondistrict.org)
Subject: CPRA request (FDBID.2017.07.31.b)
Date: Monday, July 31, 2017 4:52 PM
Size: 583 B

Good afternoon, Rena.

I'd like copies of all 2017 emails in the possession of Linda Becker that relate to the operation of the BID.

Thanks,

Adrian

EXHIBIT M

Re: CPRA request (FDBID.2017.07.31.b)

From: adrian@emailuser.net
To: [Rena Leddy <rena@fashiondistrict.org>](mailto:rena@fashiondistrict.org)
Subject: Re: CPRA request (FDBID.2017.07.31.b)
Date: Friday, August 18, 2017 3:01 PM
Size: 986 B

Good afternoon, Rena.

I'm just wondering about the status of this. You don't seem to have made an initial determination yet.

thanks,

Adrian

On Mon, Jul 31, 2017, at 04:52 PM, adrian@emailuser.net wrote:

Good afternoon, Rena.

I'd like copies of all 2017 emails in the possession of Linda Becker that relate to the operation of the BID.

Thanks,

Adrian

RE: CPRA request (FDBID.2017.07.31.b)

From: [Rena Leddy <rena@fashiondistrict.org>](mailto:rena@fashiondistrict.org)
To: adrian@emailuser.net
Subject: RE: CPRA request (FDBID.2017.07.31.b)
Date: Friday, August 18, 2017 3:12 PM
X-Delivered-To: adrian@emailuser.net
Size: 5 KB

Adrian,

I have determined that there are no records responsive to your request FDBID.2017.-7.31.b. No exemptions

Sincerely,
Rena

-----Original Message-----

From: adrian@emailuser.net [mailto:adrian@emailuser.net]
Sent: Friday, August 18, 2017 3:01 PM
To: Rena Leddy <rena@fashiondistrict.org>
Subject: Re: CPRA request (FDBID.2017.07.31.b)

Good afternoon, Rena.

I'm just wondering about the status of this. You don't seem to have made an initial determination yet.

thanks,

Adrian

On Mon, Jul 31, 2017, at 04:52 PM, adrian@emailuser.net wrote:

Good afternoon, Rena.

I'd like copies of all 2017 emails in the possession of Linda Becker that relate to the operation of the BID.

Thanks,

Adrian

EXHIBIT N

Re: CPRA request (FDBID.2017.07.31.b)

From: adrian@emailuser.net
To: [Rena Leddy <rena@fashiondistrict.org>](mailto:rena@fashiondistrict.org)
Subject: Re: CPRA request (FDBID.2017.07.31.b)
Date: Friday, August 18, 2017 3:17 PM
Size: 2 KB

Hi Rena,

As I'm sure you're aware, your staff announced a meeting in early August. If Linda Becker received that email it's responsive. If she deleted it it must have been deleted after I made my request. It's quite likely that it's illegal to destroy responsive records after a request has been made. With this in mind, can you please ask Ms. Becker to do another search?

Thanks,

Adrian

On Fri, Aug 18, 2017, at 03:12 PM, Rena Leddy wrote:

Adrian,

I have determined that there are no records responsive to your request FDBID.2017.-7.31.b. No exemptions

Sincerely,
Rena

-----Original Message-----

From: adrian@emailuser.net [mailto:adrian@emailuser.net]
Sent: Friday, August 18, 2017 3:01 PM
To: Rena Leddy <rena@fashiondistrict.org>
Subject: Re: CPRA request (FDBID.2017.07.31.b)

Good afternoon, Rena.

I'm just wondering about the status of this. You don't seem to have made an initial determination yet.

thanks,

Adrian

On Mon, Jul 31, 2017, at 04:52 PM, adrian@emailuser.net wrote:

Good afternoon, Rena.

I'd like copies of all 2017 emails in the possession of Linda Becker that relate to the operation of the BID.

Thanks,

Adrian

RE: CPRA request (FDBID.2017.07.31.b)

From: [Rena Leddy <rena@fashiondistrict.org>](mailto:rena@fashiondistrict.org)
To: adrian@emailuser.net
Subject: RE: CPRA request (FDBID.2017.07.31.b)
Date: Friday, August 18, 2017 5:05 PM
X-Delivered-To: adrian@emailuser.net
Size: 7 KB

I have determined that your request seeks records exempt from disclosure pursuant to the deliberative process privilege. Subject to the exemption, I will obtain for you a copy of all emails to Ms. Becker advising of Board meetings including any in August after your CPRA request was received; however I believe those, other than any August email, were provided to you in response to another request.

-----Original Message-----

From: adrian@emailuser.net [mailto:adrian@emailuser.net]
Sent: Friday, August 18, 2017 3:17 PM
To: Rena Leddy <rena@fashiondistrict.org>
Subject: Re: CPRA request (FDBID.2017.07.31.b)

Hi Rena,

As I'm sure you're aware, your staff announced a meeting in early August. If Linda Becker received that email it's responsive. If she deleted it it must have been deleted after I made my request. It's quite likely that it's illegal to destroy responsive records after a request has been made. With this in mind, can you please ask Ms. Becker to do another search?

Thanks,

Adrian

On Fri, Aug 18, 2017, at 03:12 PM, Rena Leddy wrote:

Adrian,

I have determined that there are no records responsive to your request FDBID.2017.-7.31.b. No exemptions

Sincerely,
Rena

-----Original Message-----

From: adrian@emailuser.net [mailto:adrian@emailuser.net]
Sent: Friday, August 18, 2017 3:01 PM
To: Rena Leddy <rena@fashiondistrict.org>
Subject: Re: CPRA request (FDBID.2017.07.31.b)

Good afternoon, Rena.

I'm just wondering about the status of this. You don't seem to have made an initial determination yet.

thanks,

Adrian

On Mon, Jul 31, 2017, at 04:52 PM, adrian@emailuser.net wrote:

Good afternoon, Rena.

I'd like copies of all 2017 emails in the possession of Linda Becker

Re: CPRA request (FDBID.2017.07.31.b)

From: adrian@emailuser.net
To: [Rena Leddy <rena@fashiondistrict.org>](mailto:rena@fashiondistrict.org)
Subject: Re: CPRA request (FDBID.2017.07.31.b)
Date: Friday, August 18, 2017 5:36 PM
Size: 4 KB

Rena, I don't think you can actually be complying with the law with respect to this request.

First you told me that there were no responsive records.

Then you said that there were responsive records but that they were exempt except for a small subclass, copies of which you have promised to obtain.

However, the fact that you don't already have copies of those nonexempt emails suggests strongly that you made your determination without having made a search for responsive records.

This of course, is not allowed by the CPRA, which requires you to search for the records and then make a determination. This is especially important when you're claiming exemptions based on section 6255(a), which, if it means anything, what you're calling "deliberative process" must be.

That section, of course, requires you to make a fact-based determination that on the specific facts of the case the public interest in withholding the record ***clearly*** outweighs the public interest in its release. There is no plausible way to make such a determination without having looked at the actual records in question.

It's highly implausible that there is any such public interest in withholding these records. If you continue to maintain that there is, I hope you will tell me what it is.

Please reconsider your noncompliant stance on these records. Also, please ask Ms. Becker not to delete any responsive emails, whether or not you consider them exempt, until we have thoroughly settled this question.

Thanks,

Adrian

On Fri, Aug 18, 2017, at 05:05 PM, Rena Leddy wrote:

I have determined that your request seeks records exempt from disclosure pursuant to the deliberative process privilege. Subject to the exemption, I will obtain for you a copy of all emails to Ms. Becker advising of Board meetings including any in August after your CPRA request was received; however I believe those, other than any August email, were provided to you in response to another request.

-----Original Message-----

From: adrian@emailuser.net [mailto:adrian@emailuser.net]
Sent: Friday, August 18, 2017 3:17 PM
To: Rena Leddy <rena@fashiondistrict.org>
Subject: Re: CPRA request (FDBID.2017.07.31.b)

RE: CPRA request (FDBID.2017.07.31.b)

From: Rena Leddy <rena@fashiondistrict.org>
To: adrian@emailuser.net
Subject: RE: CPRA request (FDBID.2017.07.31.b)
Date: Monday, August 21, 2017 4:55 PM
X-Delivered-To: adrian@emailuser.net
Size: 11 KB

The BID does not require employees or board members to save or archive their email communications, nor does the CPRA. Each employee or board member is free to delete any email sent or received once it has served its function. When and if emails exist at the time any CPRA request is received and can be identified during the retrieval process as within the scope of your request, these emails, absent CPRA exemptions, are provided to you. With the limited exception of certain documents and information that may fall within the parameters of the BID's contract with the City, we will not require BID employees or board members to retain emails simply because you have made a demand that any individual or the BID as a whole retain emails. This will be my final communication on this topic.

-----Original Message-----

From: adrian@emailuser.net [mailto:adrian@emailuser.net]
Sent: Friday, August 18, 2017 5:36 PM
To: Rena Leddy <rena@fashiondistrict.org>
Subject: Re: CPRA request (FDBID.2017.07.31.b)

Rena, I don't think you can actually be complying with the law with respect to this request.

First you told me that there were no responsive records.

Then you said that there were responsive records but that they were exempt except for a small subclass, copies of which you have promised to obtain.

However, the fact that you don't already have copies of those nonexempt emails suggests strongly that you made your determination without having made a search for responsive records.

This of course, is not allowed by the CPRA, which requires you to search for the records and then make a determination. This is especially important when you're claiming exemptions based on section 6255(a), which, if it means anything, what you're calling "deliberative process" must be.

That section, of course, requires you to make a fact-based determination that on the specific facts of the case the public interest in withholding the record ***clearly*** outweighs the public interest in its release. There is no plausible way to make such a determination without having looked at the actual records in question.

It's highly implausible that there is any such public interest in withholding these records. If you continue to maintain that there is, I hope you will tell me what it is.

Please reconsider your noncompliant stance on these records. Also, please ask Ms. Becker not to delete any responsive emails, whether or not you consider them exempt, until we have thoroughly settled this question.

Thanks,

Adrian

On Fri, Aug 18, 2017, at 05:05 PM, Rena Leddy wrote:

I have determined that your request seeks records exempt from disclosure pursuant to the deliberative process privilege. Subject to the exemption, I will obtain for you a copy of all emails to Ms. Becker advising of Board meetings including any in August after your CPRA request was received; however I believe those, other than any August email, were provided to you in response to another request.

Re: CPRA request (FDBID.2017.07.31.b)

From: adrian@emailuser.net
To: [Rena Leddy <rena@fashiondistrict.org>](mailto:rena@fashiondistrict.org)
Subject: Re: CPRA request (FDBID.2017.07.31.b)
Date: Monday, August 21, 2017 5:02 PM
Size: 103 KB

Hey Rena,

Thanks for your response. I'm attaching an interesting presentation by the former City Attorney of Lathrop, CA. She thinks that destruction of records after they've been requested under CPRA may well be a criminal violation of California Penal Code section 135. Perhaps it'll interest you.

Thanks again,

Adrian

On Mon, Aug 21, 2017, at 04:55 PM, Rena Leddy wrote:

The BID does not require employees or board members to save or archive their email communications, nor does the CPRA. Each employee or board member is free to delete any email sent or received once it has served its function. When and if emails exist at the time any CPRA request is received and can be identified during the retrieval process as within the scope of your request, these emails, absent CPRA exemptions, are provided to you. With the limited exception of certain documents and information that may fall within the parameters of the BID's contract with the City, we will not require BID employees or board members to retain emails simply because you have made a demand that any individual or the BID as a whole retain emails. This will be my final communication on this topic.

-----Original Message-----

From: adrian@emailuser.net [mailto:adrian@emailuser.net]
Sent: Friday, August 18, 2017 5:36 PM
To: Rena Leddy <rena@fashiondistrict.org>
Subject: Re: CPRA request (FDBID.2017.07.31.b)

Rena, I don't think you can actually be complying with the law with respect to this request.

First you told me that there were no responsive records.

Then you said that there were responsive records but that they were exempt except for a small subclass, copies of which you have promised to obtain.

However, the fact that you don't already have copies of those nonexempt emails suggests strongly that you made your determination without having made a search for responsive records.

This of course, is not allowed by the CPRA, which requires you to search for the records and then make a determination. This is especially important when you're claiming exemptions based on section 6255(a), which, if it means anything, what you're calling "deliberative process" must be.

That section, of course, requires you to make a fact-based determination

Re: CPRA request (FDBID.2017.07.31.b)

From: adrian@emailuser.net
To: [Rena Leddy <rena@fashiondistrict.org>](mailto:rena@fashiondistrict.org)
Subject: Re: CPRA request (FDBID.2017.07.31.b)
Date: Monday, September 04, 2017 12:21 PM
Size: 1 KB

Hi Rena,

If you've decided to do a proper search with respect to this request, can you please supply the results in a native email format rather than as a PDF?

Thanks,

Adrian

On Mon, Jul 31, 2017, at 04:52 PM, adrian@emailuser.net wrote:

Good afternoon, Rena.

I'd like copies of all 2017 emails in the possession of Linda Becker that relate to the operation of the BID.

Thanks,

Adrian

EXHIBIT O

against City under this Agreement.

- 15.2. City shall also have the right to suspend this Agreement immediately with written notice to the Corporation in the event City determines that misappropriation of funds, malfeasance, or other violations of law have occurred in connection with the management of the District. City retains the right to immediately commence disestablishment proceedings in accordance with Streets and Highways Code Section 36670, which states in pertinent part that "[a]ny district established or extended pursuant to the provisions of this part, where there is no indebtedness, outstanding and unpaid, incurred to accomplish any of the purposes of the district, may be disestablished by resolution by the city council... [i]f the city council finds there has been misappropriation of funds, malfeasance, or a violation of law in connection with the management of the district, it shall notice a hearing on disestablishment." Cal Sts & Hy Code § 36670(a)(1). In addition, City may seek all other available appropriate remedies pursuant to law. Corporation will have 10 days to respond in writing to City's notice of suspension and begin a dispute resolution process.
- 15.3. Further notwithstanding the foregoing, if Corporation ceases to be a non-profit or if a federal or state proceeding for relief of debtors is undertaken by or against Corporation, or if Corporation makes an assignment for the benefit of creditors, then City may immediately terminate this Agreement.
- 15.4. In the event City terminates this Agreement as provided in this section, City may procure upon such terms and in such manner as City may deem appropriate, services similar in scope and level of effort to those terminated, and Corporation shall be liable to City for all its costs and damages, including, but not limited to, any excess costs for such services.
- 15.5. All documents and materials produced or procured by Corporation pursuant to its performance under this Agreement, including the Management District Plan, the Ordinance, or the Act shall become City property upon date of such termination.
- 15.6. The rights and remedies of this Agreement are not exclusive and are in addition to any other rights or remedies provided by law or under this Agreement.

SECTION 16. BROWN ACT AND PUBLIC RECORDS ACT

- 16.1. The Board of Directors of Corporation is a private entity and may not be considered a public entity for any purpose, nor may its board members or staff be considered to be public officials for any purpose.
- 16.2. Notwithstanding Section 16.1 above, the Board of Directors of Corporation, when hearing, discussing, deliberating, and taking actions on matters within the subject matter of the District or that are covered under this Agreement, will comply with the provisions of the Ralph M. Brown Act (Chapter 9, commencing with Section 54950 of Part 1 of Division 2 of Title 5 of the Government Code).
- 16.3. Notwithstanding Section 16.1 above, Corporation and the Board of Directors are also subject to and must comply with the California Public Records Act (Chapter 3.5, commencing with Section 6250 of Division 7 of Title 1 of the Government Code).

SECTION 17. SEVERABILITY

If any part, term or provision of this Agreement shall be held void, illegal, unenforceable, or in conflict with any law of a federal, state or local government having jurisdiction over this Agreement, the validity of the remaining parts, terms or provisions of the Agreement shall not be affected thereby.